

WATERS POLLUTION BILL

EXPLANATORY NOTE

THIS Bill establishes a Pollution Advisory Council and makes general provisions designed to prevent or mitigate the pollution of waters. Several existing Acts deal with the pollution of waters but those Acts are concerned either with specific matters such as the prevention of the discharge of oil in territorial waters, the protection of fisheries, or the ensuring of pure water for domestic uses. Other Acts authorize the making of by-laws or rules operating only in the district of the authority by which the by-laws or rules are made.

There is no existing general legislation preserving the rights of the public to the enjoyment of waters free from pollution, nor is there general legislation which provides adequately for the reduction of pollution by encouraging diversion of trade wastes to sewers of local authorities.

Part I establishes a Pollution Advisory Council and defines its powers and functions. These are largely of an advisory nature but are sufficiently wide to provide a proper basis on which to frame the regulations and by-laws which the proposed Act contemplates. Membership of the Council will consist of representatives of the Departments of State and local authorities mainly concerned.

Part II makes general provisions which are referred to hereunder in detail.

Clause 15 makes a general provision prohibiting the discharge into any waters of—

- (a) Any pollutant of a poisonous or noxious nature; or
- (b) Any matter which endangers the lives, safety, health, property, or comfort of the public or which obstructs the public in the exercise or enjoyment of any right common to the members thereof.

The discharge of any matter from a sewer under the control of a local authority or the discharge from trade premises during a period of twelve months from the commencement of the proposed Act (or for such further period as the Minister may prescribe) of trade wastes of substantially the same nature and volume as trade wastes being discharged from those premises at the commencement of the proposed Act will not constitute an offence under the section.

No prosecution is to be commenced in respect of the discharge of any pollutant of a poisonous or noxious nature unless regulations are in force prescribing standards for determining when matter is to be deemed poisonous or noxious.

Clause 16 gives power to make regulations for the purpose of mitigating pollution. The regulations may be general or may apply to specific industries or localities.

Clause 17 prescribes the penalties for offences and *clause 18* gives power to a Magistrate to order any contravention of the proposed Act or regulations to be remedied.

Clause 19 authorizes local authorities to make by-laws (referred to as trade wastes by-laws) dealing with the reception and disposal of trade wastes.

Clause 20 provides that trade wastes by-laws are to be approved by the Minister and provides for the publication of and the making of representations with respect to proposed by-laws.

Clause 21 prescribes penalties for offences against trade wastes by-laws.

Clause 22 restricts the right of a local authority to impose charges under trade wastes by-laws in respect of the treatment or reception of trade wastes and *clauses 23* and *24* provide for an appeal from the assessment of any such charges.

Clause 25 provides for the relaxation of trade wastes by-laws in specific cases where the by-laws would be unduly restrictive.

Clause 26 provides that the discharge of domestic sewage into a sewer in accordance with by-laws of a local authority and the discharge of trade wastes in accordance with trade wastes by-laws shall not constitute a breach of the proposed Act or regulations. Local authorities are not absolved by the clause from liability in respect of the discharge of pollutants from their sewers in contravention of regulations.

Clause 27 preserves the right, subject to trade-wastes by-laws, to discharge trade wastes into public sewers.

Clauses 28 and *29* authorize the making of agreements between local authorities and the owners or occupiers of trade premises with respect to the disposal and treatment of trade wastes.

Clause 30 provides that the proposed Act shall not affect other enactments and preserves the rights of individuals to sue at common law.

Clause 31 provides that the Act shall bind the Crown.

Hon. Mr. Goosman

WATERS POLLUTION

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A BILL INTITULED

AN ACT to provide for the constitution of a Pollution Advisory Council, to define its powers and functions, and to make provision with respect to the prevention or mitigation of pollution of waters. Title.

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BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

Short Title and
commencement.

1. (1) This Act may be cited as the Waters Pollution Act 1953.

(2) This Act shall come into force on the first day of April, nineteen hundred and fifty-four.

Interpretation.

2. In this Act, unless the context otherwise requires,—

“ Council ” means the Pollution Advisory Council established under this Act:

“ Condensing water ” means any water used in any trade, industry, or commercial process or operation in such a manner that it does not take up matter into solution or suspension: 10

“ Domestic sewage ” means liquid wastes (including matter in solution or suspension therein) discharged from premises used solely for residential purposes, or wastes of the same character discharged from other premises; but does not include any solids, liquids, or gases which may not lawfully be discharged into sewers controlled by a local authority: 15 20

“ Local authority ” means a Municipal Corporation, a Town Board, a County Council, a Road Board, a Harbour Board, or a Drainage Board:

“ Minister ” means the Minister of Marine: 25

“ To pollute ”, in respect of any waters, means to contaminate the waters so as to change the physical or chemical condition thereof in such a manner as to make the waters unclean, noxious, or impure, or as to be detrimental to the health, safety, or welfare of persons using the waters, or as to render the waters undrinkable to farm animals, or as to be poisonous or harmful to animals, birds, or fish in or around the waters; and “ pollutant ” has a corresponding meaning: 30 35

“ Secretary ” means the Secretary of the Marine Department:

“ Sewer ” includes a public drain under the control of a local authority: 40

“ Trade premises ” means any premises used or intended to be used for carrying on any trade or industry; and includes any land or premises wholly or mainly used (whether for profit or not) for agricultural or horticultural purposes: 45

5 “ Trade wastes ” means any liquid, with or without matter in suspension or solution therein, which is or may be discharged from trade premises in the course of any trade or industrial process or operation or in the course of any activity or operation of a like nature; but does not include condensing water, surface water, or domestic sewage:

10 “ Waters ” means any river, stream, lake, natural or artificial watercourse, bay, gulf, harbour, or other waters within the territorial limits of New Zealand; and includes underground or artesian waters.

PART I

15 POLLUTION ADVISORY COUNCIL.

3. (1) There is hereby established a Council to be called the Pollution Advisory Council.

Pollution
Advisory
Council.

(2) The Council shall consist of—

(a) The Secretary of the Marine Department:

20 (b) Eight other members, to be appointed by the Governor-General on the recommendation of the Minister, of whom—

(i) One shall be an officer of the Marine Department;

25 (ii) One shall be an officer of the Department of Health;

(iii) One shall be an officer of the Ministry of Works;

30 (iv) One shall be an officer of the Department of Scientific and Industrial Research;

(v) Four shall be appointed to represent local authorities.

(3) The members of the Council appointed to represent local authorities shall be selected by the Minister from a panel of names submitted by the New Zealand Counties Association, the Harbours Association of New Zealand, the Municipal Association of New Zealand, Incorporated, and such Drainage Boards as the Minister may from time to time specify in that behalf by notice in
40 the *Gazette*.

(4) The number of names on the panel of names to be submitted to the Minister in the case of the appointment of any members who are to represent local authorities shall be three times as great as the number of members required to be so appointed. 5

Term of office
of members.

4. (1) Except as otherwise provided in this Act, every appointed member of the Council shall be appointed for a term of five years, but may from time to time be reappointed.

(2) Notwithstanding anything to the contrary in this Act, every member of the Council, unless he sooner vacates his office, shall continue in office until his successor comes into office. 10

Extraordinary
vacancies.

5. (1) Any appointed member of the Council may at any time be removed from office by the Governor-General for inefficiency, disability, insolvency, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed to the Minister. 15

(2) If any appointed member of the Council dies, 20 or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(3) In the case of any extraordinary vacancy the Governor-General, on the recommendation of the 25 Minister, may appoint some qualified person to fill the vacancy for the residue of the term for which the vacating member was appointed. Any such appointment shall be made in the same manner as the appointment of the vacating member. 30

(4) The powers of the Council shall not be affected by any vacancy in the membership thereof.

Members of
Council not
personally
liable.

6. No member of the Council shall be personally liable for any act done or omitted by the Council or by any member thereof in good faith in pursuance or 35 intended pursuance of the powers and authority of the Council.

Chairman and
Deputy
Chairman of
Council.

7. (1) The Governor-General may from time to time, on the recommendation of the Minister, appoint from the members of the Council a Chairman and a Deputy 40 Chairman of the Council. During any vacancy in the office of Chairman, or when the Chairman is unable to act, whether for reason of absence or otherwise, the Deputy Chairman may exercise and perform all the powers and duties of the Chairman. 45

(2) The Chairman shall preside at every meeting of the Council at which he is present. In the absence of the Chairman and Deputy Chairman from any meeting of the Council the members present shall select one of their number to be the Chairman for the purposes of that meeting.

(3) The Chairman at any meeting of the Council shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

10 **8.** (1) The Minister may from time to time appoint a qualified person who may, in any case where a member of the Council is in the opinion of the Chairman incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, act for
15 that member during his incapacity. Deputies of members.

(2) Any such appointment may at any time be revoked by the Minister.

(3) No acts done by a deputy as such shall in any proceedings be questioned on the ground that the
20 occasion for his so acting had not arisen or had ceased.

9. (1) The first meeting of the Council shall be held on a day to be appointed in that behalf by the Minister. Meetings of Council.

(2) Subsequent meetings of the Council shall be
25 held at such times and places as the Council or the Chairman from time to time appoints.

(3) Any three members of the Council may at any time call a special meeting of the Council.

(4) At every meeting of the Council four members,
30 at least one of whom shall be a representative of local authorities, shall constitute a quorum.

(5) Every question before the Council shall be determined by a majority of the votes of members present at a meeting of the Council.

(6) Subject to the provisions of this Act and of
35 any regulations made thereunder, the Council may regulate its procedure in such manner as it thinks fit.

10. (1) The Council may from time to time appoint such Advisory or Technical Committees as it thinks
40 fit or as the Minister may require, and may from time to time, with the consent of the Minister, delegate to any such Committee any of its powers or duties. Advisory and Technical Committees.

(2) Any person may be appointed to be a member of a Committee under this section, notwithstanding that
45 he is not a member of the Council.

Experts may be called by Council.

11. There may be invited to any meeting of the Council, or of any Committee appointed by the Council, such expert consultants on any matter as the Council or the Committee, as the case may be, may from time to time require; and the Council or any such Committee may or if the Minister so directs shall from time to time receive deputations and hear the views of any person or persons interested in any matter relevant to the objects of the Council. 5

Fees and travelling allowances. 1951, No. 79

12. (1) The Council is hereby declared to be a Statutory Board within the meaning of the Fees and Travelling Allowances Act 1951. 10

(2) There shall be paid out of moneys appropriated by Parliament for the purpose to the members of the Council and of every Advisory or Technical Committee appointed by the Council remuneration by way of fees, salary, or allowances and travelling allowances or expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly. 15 20

Employment of officers. See Reprint of Statutes, Vol. VII, p. 522

13. Such persons may be appointed in accordance with the Public Service Act 1912 and (in cases to which that Act does not apply) such professional, technical, and other assistance may be engaged by the Minister or by any person acting with his authority as may be considered necessary to enable the Council to perform its functions and duties. 25

Functions of Council.

14. (1) The principal functions of the Council shall be to inquire into and make reports and recommendations to the Minister on such ways of preventing or reducing the pollution of waters and of co-ordinating the functions of persons or bodies charged with the duty of preventing or reducing the pollution of waters as from time to time appear practicable, whether suggested by the Council or referred to it by the Minister. 30 35

(2) Without limiting the generality of subsection one of this section, the Council may—

- (a) Carry out surveys and investigations for the purpose of ascertaining the causes, nature, and extent of the pollution of waters: 40
- (b) Organize and encourage research into ways and means of preventing or reducing the pollution of waters:

- (c) Compile and publish information on ways and means of preventing or reducing the pollution of waters:
- 5 (d) Compile and publish codes setting forth requirements for the treatment of trade wastes or other pollutants before being discharged into waters and encourage voluntary compliance with any such codes:
- 10 (e) Compile model by-laws for local authorities in respect of the treatment and disposal of trade wastes:
- 15 (f) Investigate conflicts of interests which have arisen or may arise between different authorities, public bodies, industries, classes of the community, or persons in respect of the pollution of waters and recommend the resolution of any such conflicts:
- 20 (g) Advise Government Departments, local authorities, and public bodies for the purpose of co-ordinating the policies and activities of any such bodies in respect of the prevention or reduction of the pollution of waters.
- 25 (3) The Council shall have all such other powers as are conferred on it by this Act or by regulations under this Act and all powers and authorities necessary, conducive, or incidental to the performance of its powers and functions.

PART II

PREVENTION OF POLLUTION OF WATERS

- 30 **15.** (1) Subject to the provisions of this Act and of any regulations made thereunder, every person commits an offence against this Act who causes or knowingly permits to enter any waters—
- 35 (a) Any pollutant of a poisonous or noxious nature; or
- 40 (b) Any refuse, litter, debris, or other matter, whether solid or liquid, which either directly or in combination with similar acts (whether his own or another's) endangers the lives, safety, health, property, or comfort of the public or which obstructs the public in the exercise or enjoyment of any right common to the members thereof.
- Prohibition of pollution of waters.

(2) For the purposes of subsection *one* of this section a person shall be deemed to cause matter to enter any waters if he places it or causes it to be placed in a position where it is liable to fall, or descend, or be washed, or to percolate into the waters. 5

(3) Notwithstanding the provisions of subsection *one* of this section,—

- (a) The discharge of any matter from a sewer or a sewage disposal works under the control of a local authority; or 10
- (b) The discharge from any trade premises, during a period of twelve months from the commencement of this Act or such further period as may be prescribed in that behalf, either generally or in respect of specified classes of trade 15 premises, by notice by the Minister published in the *Gazette*, of any trade wastes of substantially the same nature and volume as trade wastes that are being discharged from those trade premises at the commencement of this 20 Act,—

shall not constitute an offence under the said subsection.

(4) No prosecution shall be commenced under this section in respect of the entry into any waters of any matter to which paragraph (a) of subsection *one* of this 25 section relates unless regulations under this Act are in force prescribing standards for determining when matter is to be treated as poisonous or noxious for the purposes of this Act.

Regulations.

16. (1) The Governor-General may from time to 30 time, by Order in Council, make all such regulations as may be contemplated by this Act or as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof. 35

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

- (a) Prescribing standards for the purpose of 40 determining when matter is to be treated as poisonous, noxious, or polluting for the purposes of this Act:
- (b) Prescribing conditions subject to which matter may be permitted to enter waters without 45 constituting a breach of this Act:

- (c) Prescribing standards and tests for the determination of the extent of pollution of water:
 - 5 (d) Regulating or imposing restrictions or conditions as to the bringing into use of any new or altered outlet for the discharge of trade wastes into waters or as to the making of any new, additional, or increased use of any existing outlet for that purpose:
 - 10 (e) Prohibiting, regulating, or imposing restrictions or conditions with respect to the pollution of waters by matter discharged from sewers or drains whether under the control of local authorities or other persons:
 - 15 (f) Prescribing rules to be observed for the purpose of remedying, mitigating, or controlling the effect of sewage discharged into waters:
 - (g) Providing for the marking by any person or authority of points of discharge of sewage or other polluting matter:
 - 20 (h) Prescribing standards of purity in relation to different classes of waters and prescribing methods of applying any such standards:
 - (i) Providing for the appointment of Inspectors and defining their powers and functions:
 - 25 (j) Prescribing offences against the regulations and prescribing penalties for any such offences:
 - (k) Prescribing such other matters for the purpose of preventing, controlling, or mitigating the pollution of waters as may appear to the
 - 30 Governor-General necessary or desirable.
- (3) Regulations made under this section may be so made as to apply generally throughout New Zealand or within any specified part or parts thereof, or within the whole of New Zealand except such part or parts as
- 35 may be specified in the regulations or to all waters or to specified waters or classes of waters, and may be so made as to apply to any specified industry or to any specified class or classes of industry.
- (4) All regulations under this Act shall be laid
- 40 before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

Offences.

17. (1) Any person who commits an offence against this Act or any regulations made under this Act for which no specific penalty is provided shall be liable on summary conviction to a fine not exceeding one hundred pounds, and, if the offence is a continuing one, to a further fine not exceeding ten pounds for every day during which the offence continues. 5

(2) Where any person has been convicted of an offence against this Act or regulations under this Act involving the pollution of waters, and that person at any time within three years after the conviction is found guilty of a further offence, which is substantially a repetition of the earlier offence, he shall be liable on conviction for the further offence to a fine not exceeding five hundred pounds and to a further fine not exceeding fifty pounds for every day during which the offence continues after the further conviction. 10 15

(3) Where any person has been convicted of an offence against this Act or regulations under this Act involving the pollution of waters the Court may direct that such portion of the fine imposed as the Court may deem necessary shall be paid to any local authority, or other person, to cover any costs incurred by that local authority or person in removing, burying, or otherwise disposing of or neutralizing the effects of any pollutant the discharge of which gave rise to the offence. 20 25

(4) Where under section *sixteen* of this Act standards are prescribed for determining whether any matter is poisonous, noxious, or polluting they shall be conclusive for the purposes of this Act or of regulations or by-laws made thereunder on the question as to what is or is not poisonous, noxious, or polluting in relation to waters to which the standards apply. 30

Power to order
contravention
to be remedied.

18. (1) In any proceedings in respect of the contravention of or non-compliance with any requirement, obligation, rule, or provision under this Act or any regulations or by-laws made under the authority of this Act, the Magistrate, in addition to or instead of imposing a fine, may by order require the defendant to do any specified work or to adopt any specified means for the purpose of preventing the further contravention of or non-compliance with the requirement, obligation, rule, or provision, and may specify a time within which the order shall be obeyed. The time so specified may from time to time be extended by the Magistrate on the application of the defendant. 35 40 45

(2) If the Magistrate makes the order instead of imposing a fine, he shall adjourn the proceedings until the expiry of the time specified in the order. If the order is duly obeyed, he may, if he thinks fit, impose
5 no penalty in respect of the offence.

(3) If default is made in duly obeying the order within the time or extended time specified in that behalf, the defendant commits an offence against this Act and shall be liable on summary conviction to a
10 fine not exceeding ten pounds for every day during which the default continues.

Trade Wastes By-laws

19. (1) Any local authority may make by-laws not inconsistent with this Act or with regulations made
15 thereunder (in this Act referred to as trade wastes by-laws) with respect to the discharge of any trade wastes, or trade wastes of any particular nature or composition from trade premises into any sewer controlled by the local authority, and any such by-laws
20 may provide for all or any of the following matters, that is to say:

Powers of local authorities to make trade wastes by-laws.

(a) Requiring notice to be given of the volume, composition, and rate of discharge of any trade wastes being discharged into any sewer
25 at the time of the coming into force of the by-laws:

(b) Requiring notice to be given of the volume, composition, and rate of discharge of any trade wastes intended to be discharged into
30 any sewer before any new drain is connected to convey the trade wastes to the sewer, or before any increased, new, or different use is made of any drain at the time of the notice conveying any liquid to a sewer, and
35 providing for the notice to be deemed an application for the consent of the local authority:

(c) Determining the period or periods of the day during which trade wastes may be discharged
40 from trade premises into the sewer:

- (d) Requiring the exclusion from liquid discharged with trade wastes of condensing water or a proportion of condensing water:
- (e) Requiring that, before any trade waste enters a sewer, the amount of any specified injurious constituent in the trade waste should be reduced to the extent prescribed in the by-laws: 5
- (f) Determining the maximum quantity or quantities of the trade wastes which may, without the consent of the local authority, be discharged from any trade premises into the sewer on any one day, and the highest rate at which the trade wastes may, without any such consent, be discharged from any trade premises into the sewer: 10 15
- (g) Regulating the temperature of the trade wastes at the time when they are discharged into the sewer, and securing, as far as reasonably practicable, that the trade wastes, when so discharged, shall be neutral—that is to say, neither acid nor alkaline: 20
- (h) Requiring, in accordance with this Act, the occupiers of trade premises from which trade wastes are discharged into a sewer to pay to the local authority such charges at such scales as may be specified in that behalf in the by-laws for the reception of the trade wastes into the sewer, and for the disposal thereof, regard being had to the composition and volume of the trade wastes so discharged and to any additional expense incurred or likely to be incurred by the local authority in connection with the reception or disposal of the trade wastes: 25 30 35
- (i) Making provision for the treatment of trade wastes, either before or after discharge into a sewer, by the local authority and prescribing the scales of charges in respect of any such treatment payable to the local authority by the occupiers of trade premises from which the trade wastes are discharged: 40

- 5 (j) Requiring the provision and maintenance by and at the expense of the occupier of the trade premises concerned, of such an inspection chamber or manhole as will enable a person readily to take at any time samples of what is passing into the sewer from the premises:
- 10 (k) Requiring the provision and maintenance by and at the expense of the occupier of the trade premises concerned of such meters as may be required to measure the volume of any trade wastes being discharged from the premises into a sewer, and for the testing of the meters:
- 15 (l) Requiring the provision and maintenance by and at the expense of the occupier of the trade premises concerned of screens, grease traps, silt traps, or other means of preventing the discharge of solids or grease from the trade premises.
- 20 (2) Any trade wastes by-laws may apply generally throughout the district of the local authority or within any specified part or parts thereof and may be so made as to apply to any specified trade premises or to any specified class or classes of trade premises.
- 25 **20.** (1) Subject to the provisions of this section, all trade wastes by-laws shall be made in the same manner as the local authority concerned is authorized to make by-laws. **Making and confirmation of trade wastes by-laws.**
- 30 (2) No trade wastes by-laws shall be of any effect until confirmed by the Minister.
- (3) The Minister shall not entertain any application for confirmation of any trade wastes by-laws made by a local authority unless he is satisfied that the following requirements have been complied with, that is to say:
- 35 (a) At least two months before the making of the by-laws the local authority shall publish, by advertisement at its offices and in one or more daily newspapers circulating in the district of the local authority, a notice of its intention to make by-laws under this Act, stating—
- 40 (i) To what trade wastes the by-laws will relate;

(ii) That, at such place as may be specified in the notice, copies of the draft by-laws may be inspected free of charge, and may be obtained on payment of such charge as may be specified; and

(iii) That the local authority is prepared to receive and consider any representation with respect to the by-laws which may be made to them in writing by or on behalf of owners or occupiers of trade premises within the district of the local authority at any time during such period after the date of the publication of the notice, not being less than two months, as may be specified in the notice:

(b) The local authority, before making the by-laws, shall take into consideration any representation which it has undertaken to consider under the terms of the notice given by them as aforesaid and shall consult any interested body:

(c) If the Minister has, for the purposes of this Act, designated to the local authority any specified body of persons as being representative of the interests of the owners or occupiers of trade premises in the district of the local authority, or of any class of those owners or occupiers, the local authority shall, before making the by-laws, consult that body.

(4) Where the owner or occupier of any trade premises within the district of a local authority serves on the local authority a written request to be registered and states his name and postal address, it shall be the duty of the local authority to enter his name and address in a register to be kept by it for the purpose of this Act; and so long as his name appears in the register the local authority shall cause to be sent to him a copy of any notice which it is required by this Act to publish in connection with the making of trade wastes by-laws or the confirmation of any such by-laws.

(5) The local authority may remove from the said register the name of any person who has ceased to be the owner or occupier of trade premises within its district, or who has requested the local authority in writing to remove his name from the register.

(6) As soon as may be after any trade wastes by-laws are confirmed by the Minister, the local authority shall publish, by advertisement at its offices and in one or more daily newspapers circulating in its district, a notice of the confirmation, specifying the date on which the by-laws will come into operation, and stating that copies of the by-laws may be inspected and obtained at the offices of the local authority on payment of a specified amount.

10 **21.** If any trade wastes by-law under this Act is contravened or not complied with in the case of any trade premises, the occupier of the premises commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds and, if the offence is a continuing one, to a further fine not exceeding five pounds for every day on which the offence continues.

Offences
against trade
wastes by-laws.

15 **22.** (1) No charges under any trade wastes by-laws made under this Act for the treatment (whether before or after discharge into a sewer) or the reception or disposal of trade wastes shall be made by any local authority except—

Restriction on
rights of local
authority to
charge in
respect of
treatment or
reception of
trade wastes.

20 (a) Such charges as may be necessary for the treatment by the local authority of the trade wastes so as to reduce the trade wastes to a strength or quality equivalent to the average strength or quality of domestic sewage normally discharged into the sewers of that local authority:

25 (b) A charge in respect of the reception and disposal of excess sewage from trade premises.

30 (2) When fixing any charges to which paragraph (a) of subsection *one* of this section relates the local authority shall take into consideration and make allowances for any return received by the local authority in respect of the sale or other disposal of by-products produced as the result of the treatment of the trade wastes in respect of which the charges are made.

35 (3) With respect to any charges to which paragraph (b) of subsection *one* of this section relates, the following provisions shall apply:

40 (a) The charges shall be made in accordance with and at a scale or scales prescribed by trade wastes by-laws under this Act:

- (b) Any such charges shall be made only in respect of the amount by which trade wastes discharged from any premises exceeds the amount of domestic sewage which would normally be discharged from other premises having substantially the same rateable value: 5
- (c) The amount of any such charges shall not exceed the amount of the costs which the local authority estimates would be reasonably incurred by it in respect of the reception and disposal of an equivalent amount of domestic sewage: 10
- (d) Any local authority may, for the encouragement of industry, exempt trade premises discharging less than a prescribed amount of trade wastes from the payment of any such charges or from a prescribed proportion of any such charges. 15

(4) Nothing in this section shall affect the right of a local authority to make charges or levy rates in respect of the treatment, reception, or disposal of sewage conferred by or under the authority of any other Act or by any agreement entered into under the authority of this Act. 20

(5) For the purposes of this section the expression "rateable value", when used in relation to any premises, means the value in respect of which rates are levied by the Municipal Corporation, Town Board, Road Board, or County Council, as the case may require, of the district where the premises concerned are situated. 25 30

Appeal from
assessment of
charges.

23. (1) Within twenty-one days after the receipt by any person of an assessment from a local authority of an amount claimed by the local authority to be due, pursuant to trade wastes by-laws under this Act, in respect of the treatment or reception of trade wastes, that person may notify the local authority that he objects to the assessment. 35

(2) The objection shall be in writing and shall set out the grounds of the objection.

(3) Unless within fourteen days of the receipt of the objection the assessment is amended by the local authority in such a manner as to be acceptable to the objector, he may appeal to a Magistrate.

(4) Every appeal to a Magistrate under this section shall be made within such time and shall be in such form as may be prescribed by regulations under this Act and, except as prescribed by any such regulations, the Magistrate shall determine his own procedure at the appeal.

24. (1) At the hearing of any such appeal the Magistrate shall hear all the evidence tendered and all representations by or on behalf of the appellant and other persons which he deems relevant to the subject matter of the appeal.

Hearing and determination of appeal.

(2) In his determination of any such appeal the Magistrate may confirm, modify, or disallow the assessment and any such determination shall be final and binding on all persons concerned.

25. Where a local authority considers that the operation of any trade wastes by-law made by that authority would be unreasonable in relation to any particular case, the local authority may, with the consent of the Minister, relax the requirements of the by-law or dispense with the compliance therewith in that particular case.

Trade wastes by-laws may be relaxed in certain cases.

26. (1) Notwithstanding the provisions of this Act, the discharge of any domestic sewage into a sewer under the control of a local authority in accordance with the by-laws of that authority and the discharge of trade wastes into a sewer in accordance with trade wastes by-laws under this Act shall not constitute a breach of any provision of this Act or of any regulations made thereunder:

Discharge of sewage into sewer in accordance with by-laws not to constitute offence.

Provided that nothing in this section shall absolve any local authority from liability in respect of the discharge, in contravention of any regulations under this Act, of any pollutant from a sewer under the control of the local authority.

(2) The Minister may, by notice under his hand published in the *Gazette*, declare that any by-law made by a local authority and specified in the notice shall be deemed to be a trade wastes by-law for the purposes of this section; and on the publication of any such notice (which may at any time be amended or revoked) the expression "trade wastes by-laws" when used in this section shall be deemed to include any by-law to which any such notice for the time being relates. 5

Right to
discharge
trade wastes
into sewers.

27. Subject to the provisions of this Act and of any regulations and trade wastes by-laws under this Act, the occupier of any trade premises within the district of a local authority may, with the consent of the local authority, or, as far as permitted by any such trade wastes by-laws, without any such consent, discharge into the sewers under the control of the local authority any trade wastes proceeding from those premises. 10 15

Miscellaneous

Agreements as
to disposal of
trade wastes.

28. (1) Subject to the provisions of this Act and of any trade wastes by-laws for the time being in force, a local authority may enter into and carry into effect an agreement with the owner or occupier of any trade premises within its district for the reception and disposal of any trade wastes produced on those premises, and in particular, but without prejudice to the generality of the preceding provisions of this section, the agreement may provide for the construction, maintenance, and operation by the local authority of such works as may be required for the said reception, treatment, or disposal, and for the repayment by the owner or occupier, as the case may be, of the whole or part of the expenses incurred by the local authority in carrying out its obligations under the agreement: 20 25 30

Provided that any agreement entered into under this subsection by a local authority shall not take effect unless and until the agreement has been approved by the Minister. 35

(2) A local authority may enter into and carry into effect an agreement with the owner or occupier of any trade premises within its district whereby the local 40

authority, upon such terms as may be specified in the agreement, undertakes to remove and dispose of substances produced in the course of treating any trade wastes on or in connection with those premises.

5 (3) Where, for the purpose of compliance with any trade wastes by-laws, it is necessary for any works to be constructed by any person, the local authority may construct those works at the request of that person, and the amount of the expenses reasonably
10 incurred by the local authority in so doing shall be a debt due to the local authority from the person at whose request the works were constructed.

(4) Where any sum is payable by any person under subsection *three* hereof to a local authority, the local
15 authority may make an agreement with him for the payment of that sum and the interest thereon to the local authority in such instalments over such period and on such terms (including a term as to the giving of security by the debtor), as may be specified in the
20 agreement.

29. (1) With the approval of the Minister, any local authority may enter into an agreement with any owner or occupier of any trade premises within its district to share the costs of construction, maintenance, and
25 operation of any works for the reception, treatment, and disposal of domestic sewage within the whole or any part of the district of the local authority and trade wastes from the trade premises.

Local authority may enter into agreements for disposal of sewage and trade wastes.

(2) With the approval of the Minister, any local
30 authority may enter into an agreement with any owner or occupier of any trade premises within its district whereby the owner or occupier will receive domestic sewage from a local authority for treatment and disposal together with trade wastes from any such
35 premises, and the local authority may make such contribution towards the costs of any such reception, treatment, and disposal as may be agreed upon between the parties to the agreement.

Provisions of
this Act not to
affect other
enactments.

30. (1) The provisions of this Act are in addition to and not in substitution for the provisions of any other Act, and the compliance with the provisions of this Act or any regulations or by-laws made under this Act shall not confer any relief or exemption from liability under any other enactment but no person shall be convicted of any offence under this Act in respect of the same matter for which he has been convicted of an offence under any other enactment. 5

See Reprint
of Statutes,
Vol. V, p. 943

(2) No person shall be deemed to have committed a breach of any provision of this Act or of any regulations or by-laws under this Act who discharges or permits to be discharged any pollutant from a mine in accordance with the provisions of the Mining Act 1926. 10 15

(3) Nothing in this Act or in any regulations or by-laws under this Act shall affect any right which any person may have under any rule of law to restrict or prevent, or obtain damages in respect of, the pollution of waters. 20

Act to bind
Crown.

31. This Act shall bind the Crown.